HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G. BHAVANI PRASAD

WRIT APPEAL NO. 337 OF 2006

BETWEEN

Vemula Rajasekhar

.....Appellant

And

Janagaon Municipality, rep. by its Commissioner, Janagaon, Warangali District & others

.....**Respondents**

:: JUDGMENT ::

Counsel for the Appellant : Shri P. Veera Reddy

Counsel for Respondent Nos.1 & 3 : Shri S. Nageswara Rao

Counsel for Respondent No.2 : Government Pleader for

Municipal Administration &

Urban Development

Counsel for Respondent No.4 : None

Dated: 28.03.2006

Per G.S. SINGHVI, CJ

Feeling dissatisfied with order dated 02.03.2006 passed by the learned Single Judge in Writ Petition No.3930 of 2006, whereby he directed Janagaon Municipality to consider and dispose of the representation made by him in the matter of alleged illegal construction being raised by respondent No.4 in property bearing Municipal No.2-1-109, the appellant has filed this appeal.

We have heard Shri P. Veera Reddy, learned counsel for the appellant and perused the record.

Shri Reddy invited our attention to the averments contained in the affidavit filed in support of the writ petition and the photographs annexed with it to show that despite the rejection of his application for permission to raise construction, respondent No.4 is going ahead with the construction. He then submitted that if respondent No.4 is not restrained from continuing with the construction at the site in question, the direction given by the learned Single Judge to the authorities of the Municipality to decide the appellant's representation may become infructuous.

We have considered the submission of the leaned counsel, but we are not felt impressed. A perusal of the affidavit filed in support of the writ petition shows that the deponent has verified the contents of all the paragraphs on the basis of his knowledge, information and belief. Such type of verification is not consistent with the requirement of Rule 5 of the Andhra Pradesh High Court Writ Rules, 1977 and Order XIX Rule 3 of the Code of Civil Procedure. Therefore, the same cannot be acted upon for recording a finding that respondent No.4 has been raising construction at the site in question. It hardly need emphasis that the writ petitions filed under Article 226 of the Constitution of India are decided on the

basis of the affidavits and documents filed by the parties. Therefore, the affidavit filed in support of the writ petition must satisfy the requirement of the statute so as to enable the Court to go into the correctness or otherwise of the pleadings of the parties and decide the issues of facts.

The photographs produced by the appellant in support of his plea that respondent No.4 is illegally raising the construction are too obscure to be acted upon. The photographs do not give clear picture of the activities, which have been photographed. The date on which the photographs were taken has not been mentioned. Affidavit of the author of the photographs has also not been filed. Therefore, it is not possible to rely on the photographs and entertain the grievance made by the appellant.

With the above observations, the appeal is dismissed. However, it is made clear that the appellant shall be free to prosecute his remedy before the appropriate civil Court against the so-called illegal construction being raised by respondent No.4.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

28.03.2006

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